

1 Jason M. Silver, 016756
2 SILVER LAW PLC
3 7033 E. Greenway Parkway Suite 200
4 Scottsdale, Arizona 85254
5 Telephone: (480) 429-3360
Facsimile: (480) 429-3362
jsilver@silverlawplc.com
5 Attorney for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States of America,

Plaintiff,

V.

David Allen Harbour,

Defendant.

| No. CR-19-00898-PHX-DLR-(DMF)

MOTION TO WITHDRAW AS COUNSEL

Undersigned counsel respectfully request the Court enter an Order permitting Jason M. Silver of Silver Law PLC, to withdraw as counsel of record for Defendant David Allen Harbour.

Pursuant to L.R. Crim. P. 57.14 and Rule 83.3, undersigned counsel moves to withdraw based upon the following:

1. On July 30, 2019, Defendant was Indicted.
2. On August 29, 2019, the Court substituted Attorney Alan Baskin in as Counsel for Defendant, as the lead attorney.
3. On February 3, 2020, Attorney Mladen Zeljko Milovic filed his Notice of Appearance for Defendant.
4. On November 24, 2020, Plaintiff filed a Superseding Indictment, including Count 24, Tax Evasion, Count 25, False Statement and Count 26, Obstruction, all under Title 26.

1 5. On March 31, 2021, Attorney Ashley Adams filed a Notice of Appearance.

2 6. On April 8, 2021, undersigned counsel filed a Notice of Appearance and Association.

3 7. Undersigned counsel was brought into this case as a secondary support attorney on

4 only the Title 26 counts. All pleadings since undersigned counsel's appearance have

5 been filed by Attorney Baskin, Milovic or Adams. All motions in this case were to be

6 filed by Mr. Baskin's office relating to any exclusion of witnesses or limiting witness

7 testimony. Undersigned counsel has been the least involved attorney in this matter

8 and was in a mere support role.

9 8. Attorneys Baskin and Milovic filed an Ex Parte Motion to Withdraw as Counsel,

10 which was granted on December 21, 2021.

11 9. On January 11, 2022, Attorney Ashley Adams filed a Motion to Withdraw or

12 Aleratively to Continue Trial for a Period of 90 days, which is set before this Court

13 for hearing on January 25, 2022 at 1 p.m. Based upon Ms. Adams Motion, it appears

14 that with a proper continuance, Ms. Adams or another retained attorney could

15 represent the Defendant in the three tax counts.

16 In accordance with Arizona Supreme Court Rule 42, Rule of Professional Conduct
17 ("ER") 1.16(a)(1), undersigned counsel ethically is required to withdraw from further
18 representation of Defendant because continued representation would violate the Rules of
19 Professional Conduct. A conflict of interest has arisen between counsel and Defendant that
20 requires counsel to withdraw from this case. Undersigned counsel cannot elaborate further
21 regarding the facts underlying the conflict of interest, in order to avoid disclosing confidential
22 and attorney/client privileged information. Counsel's request to withdraw based upon a
23 mandatory duty to withdraw under the Rules of Professional Conduct and avowal that there is a
24 conflict of interest should be taken at face value, such that the court should not require the
25 disclosure of confidential information. *Maricopa County Public Defender's Office v. Superior
Court of Maricopa County*, 187 Ariz. 162, 927 P.2d 822 (App. 1996).

1 Undersigned counsel has attempted to contact the Defendant through his wife and other
2 counsel Ashley Adams to no avail. Undersigned counsel believes Defendant is aware of all trial
3 deadlines.

4 For the foregoing reasons, undersigned counsel requests permission to withdraw as
5 counsel of record for Defendant.

6 RESPECTFULLY SUBMITTED this 20th day of January, 2022.

7 SILVER LAW PLC

8 By: s:/ Jason M. Silver

9 Jason M. Silver
10 Attorney for Defendant

11
12
13 I hereby certify that on January 20, 2022, I electronically transmitted the attached
14 document to the Clerk's Office using the CM/ECF system for filing.

15
16 /s/ Lindsay A. Chapman

17 Lindsay A. Chapman, Legal Assistant